

25.002

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Buy American Act (see the various country “end product” definitions in 25.003) is different from the test to determine the country of origin for an end product under the trade agreements, or the criteria for the report on end products manufactured outside the United States (see 25.004).

(1) The Buy American Act uses a two-part test to define a “domestic end product” or “domestic construction material” (manufactured in the United States and a formula based on cost of domestic components). The component test has been waived for acquisition of commercially available off-the-shelf items.

(2) Under the trade agreements, the test to determine country of origin is “substantial transformation” (*i.e.*, transforming an article into a new and different article of commerce, with a name, character, or use distinct from the original article).

(3) For the reporting requirement at 25.004, the only criterion is whether the place of manufacture of an end product is in the United States or outside the United States, without regard to the origin of the components.

(4) When using funds appropriated under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), the definition of “domestic manufactured construction material” requires manufacture in the United States but does not include a requirement with regard to the origin of the components. If the construction material consists wholly or predominantly of iron or steel, the iron or steel must be produced in the United States.

[64 FR 72419, Dec. 27, 1999, as amended at 67 FR 21535, Apr. 30, 2002; 71 FR 20306, Apr. 19, 2006; 71 FR 57377, Sept. 28, 2006; 74 FR 14626, Mar. 31, 2009; 75 FR 38691, July 2, 2010; 75 FR 53165, Aug. 30, 2010]

25.002 Applicability of subparts.

The following table shows the applicability of the subparts. Subpart 25.5 provides comprehensive procedures for offer evaluation and examples.

	Subpart	Supplies for use		Construction		Services performed	
		Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.
25.1	Buy American Act—Supplies	X					
25.2	Buy American Act—Construction Materials			X			
25.3	Contracts Performed Outside the United States		X		X		X
25.4	Trade Agreements	X	X	X	X	X	X
25.5	Evaluating Foreign Offers—Supply Contracts	X	X				
25.6	American Recovery and Reinvestment Act—Buy American Act—Construction Materials			X			
25.7	Prohibited Sources	X	X	X	X	X	X
25.8	Other International Agreements and Coordination	X	X		X		X
25.9	Customs and Duties	X					
25.10	Additional Foreign Acquisition Regulations	X	X	X	X	X	X
25.11	Solicitation Provisions and Contract Clauses	X	X	X	X	X	X

[64 FR 72419, Dec. 27, 1999, as amended at 67 FR 21535, Apr. 30, 2002; 71 FR 20306, Apr. 19, 2006; 73 FR 10957, Feb. 28, 2008; 74 FR 14626, Mar. 31, 2009]

25.003 Definitions.

As used in this part—

Caribbean Basin country means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent

and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago.

Caribbean Basin country end product—

(1) Means an article that—

(i)(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials